UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

ALMA PRODUCTS COMPANY

and Case 07–CA–89537

DISTRICT 2, LOCAL 2-540-1, UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO

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for the Respondent.

DECISION

STATEMENT OF THE CASE

PAUL BOGAS, Administrative Law Judge. This case was tried in Detroit, Michigan on March 4, 2013. District 2, Local 2-540-1, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO (the Charging Party or the Union) filed the initial charge on September 19, 2012, and amended charges on October 10, November 19, and December 11, 2012. The Regional Director for Region 7 of the National Labor Relations Board issued the complaint on January 14, 2013, and amended the complaint on February 12, 2013. The complaint alleges that Alma Products Company (the Respondent or the Company) violated Section 8(a)(1) by maintaining a rule that states, inter alia, that clothing displaying words or images derogatory to the company will not be allowed in any facilities." The complaint further alleges that when it applied that rule to send Mark Gluch home without pay for wearing a shirt that had the word "slave" on it and a drawing of a ball and chain, the Respondent interfered with employees' Section 7 rights in violation ofSection 8(a)(1) and discriminated against Gluch in violation of Section 8(a)(3) and (1). The Respondent filed a timely answer in which it denied that it had violated the Act.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent, I make the following findings of fact and conclusions of law.

FINDINGS OF FACTS[1]

I. JURISDICTION

The Respondent, a corporation, manufactures and remanufactures automotive components for non-retail sale at its facility in Alma, Michigan, where it annually purchases and receives goods valued in excess of $50,000 directly from points located outside the State of Michigan. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. BACKGROUND FACTS

The Respondent manufactures and remanufactures components for non-retail sale to automotive industry customers, including Ford Motor Company, Chrysler Group, Caterpillar, John Deere, and several other domestic and foreign companies. A bargaining unit of the Respondent's employees has been continuously represented for collective bargaining purposes since June 1977. There have been a number of different bargaining representatives during that time, and the Charging Party Union has served in that capacity from at least 2005 onward. At the time of trial there were between 150 and 175 bargaining unit employees.

This case centers around the Respondent's maintenance of a dress code policy that prohibited, inter alia, the display of "words or images derogatory to the Company," and the Respondent's enforcement of that policy to send unit employee Gluch home without pay on May 3, 2012, because he displayed a shirt on which was printed the word "slave" along with a representation of a ball and chain (hereinafter referred to as the "slave shirt"). Gluch has worked for the Respondent for over 30 years and at the time in question was employed as an equipment operator. During most of the workday, Gluch remains at his work station. He leaves that area and walks through the plant when necessary to obtain or drop off components, and for restroom and lunch breaks. Brian Pate, the Respondent's employee relations manager, testified that Gluch was known to be "a very vocal supporter of the Union." The Respondent's action against Gluch took place during a period of contentious negotiations for a new contract. Gluch supported the Union during contract negotiations by, inter alia, displaying signs on the back of his pickup truck in the Respondent's parking lot. Some of these signs were are large as five-by-eight feet, and bore slogans including "WE HAVE. WE CAN. WE WILL. SOLIDARITY," and "WE SUPPORT OUR BARGAINING COMMITTEE." Signs displayed by others during this period included one showing a six-foot high representation of the Tin Man from the *Wizard of Oz* along with a message opining that, like the Tin Man, the Respondent needed to get a heart, and another one that read "YOU KICK THE DOG, THE DOG WILL BITE." It was common for employees to wear hats and shirts bearing union insignia during this period. After a representative of the international union informed the unit employees that the 2012 contract

[1] The Respondent's unopposed motion to correct the transcript, dated April 8, 2013, is granted and received in evidence as Respondent's Exhibit Number 2.

negotiations were going poorly, Gluch joined an informal, eight-member, union "reaction committee," that created and distributed prounion buttons and signs.

B. The Slave Shirt and the Dress Code

The "slave shirt," at issue in this proceeding originated during contract negotiations in 1993. It was created in response to statements by the chairman of the union bargaining committee that negotiations were not going well and that employees "needed to send the Company a message." The employees themselves, not the Union, developed and paid for the slave shirts. The letters spelling out the word "slave" on the back of these shirts are approximately 2 ½ inches in height and are printed in white against a black background, as is the depiction of a ball and chain. The employee's time clock number is also printed on each shirt. There is no other printing on the shirts. In particular, the shirts do not have the word "union" on them, nor do they name or identify any particular union. At the time of the negotiations in 1993, about half of all unit employees purchased the shirt.

In April 1996, the bargaining unit employees engaged in a strike against the Respondent. Additional employees purchased slave shirts at that time. Employees wore the shirt while picketing the Respondent. In the immediate aftermath of the strike, approximately 20-30 percent of unit employees wore the slave shirts on any given Friday. That number dwindled over the subsequent years. Nevertheless, the shirt was still being worn by employees at the Respondent's facility with some regularity as of 2005.

In 2005, Alan Gatlin became the Respondent's president and chief executive officer. He testified that he noticed employees wearing the slave shirt and considered it to be racially offensive. He also testified that he felt "embarrassed" that persons visiting the plant would see employees wearing the shirt and, although he is not African-American, found it "personally" "offensive." At trial he explained that in his view "[i]t certainly can't reflect well on us with our customers trying to get new business." Pate (human resources manager) testified that he felt that the shirt was racially offensive because "slavery . . . in America was predominately an African-American issue." He also stated that he considered it "demeaning to compare[ ] working a job to being slave where you had no freedom, beating, could be killed." He stated that he found the shirt "personally offensive," although he is not African-American.

Gatlin decided to address his concerns about the slave shirt and asked Pate to draft a dress code policy. Pate did so and the Respondent implemented the policy on or about January 9, 2006. The policy did not reference the slave shirt, but rather stated more general prohibitions. The memorandum announcing the policy was directed to all employees and stated in relevant part:

> SUBJECT: Plant Dress Code
>
> As we move forward in 2006, the Company will be aggressively seeking new business and inviting current and potential customers into the plants to see the changes being made in our operations. In accordance with this, we are implementing a dress code policy to ensure that we maintain a positive image to visitors. Effectively immediately, clothing displaying vulgar/obscene phrases, remarks or images which may be racially, sexually or otherwise offensive and clothing displaying words or images derogatory to the Company will not be allowed in any facilities. Similarly displays of these kinds of items are also prohibited on workstations, lockers, tool boxes and the like.

> In addition, all regular safety-related dress code regulations remain in effect.
>
> If you are uncertain whether an article of clothing is appropriate under this policy, follow the old adage of better safe than sorry and refrain from wearing it at work. Questions regarding this policy may be addressed to your supervisor or Human Resources. Repeated violations of this policy may result in discipline up to, and including, discharge. Thank you for your cooperation and adherence to this policy.

At the time the dress code was implemented, Gatlin met with the Respondent's supervisors and explained that display of the slave shirt at the facility was prohibited by the dress code. Gatlin did not convey this information directly to unit employees. At least one supervisor told unit employees who worked under him that the slave shirt was considered racially offensive for purposes of the dress code, but some or all of the other supervisors did not tell their supervisees that the policy prohibited wearing the shirt. At the time the Respondent implemented the dress code, it already had a policy in effect that, since the 1990s, prohibited racial or sexual discrimination. The Respondent did not claim, or show, that it ever took action against any employee for allegedly racially offensive conduct or clothing prior to the action it took against Gluch in May 2012.

Despite the concerns that the Respondent expressed about the possible racial implications of the slave shirt, the Respondent's witnesses consistently acknowledged that the motivation for the shirt was to express dissatisfaction with their terms and conditions of employment. Gatlin testified that the slave shirt was a "general wage and conditions protest." Pate stated that Gluch wore the shirt to criticize "working conditions or the Company's position in bargaining." He testified that he did not think that Gluch was wearing the shirt to criticize African-American employees. Dar Whitman, the supervisor who first asked Gluch to stop displaying the shirt on May 3, stated that "I knew at first [the shirt] was a union thing, but I guess I . . . didn't really understand the whole reason why [employees] started them, other than the union thing."

The Respondent's argument that it acted permissibly by disciplining Gluch for displaying the slave shirt at work is based in part on the claim that the shirt would be racially offensive to visitors who toured the Respondent's facility. The evidence shows that there are approximately two to three tours each month and that the individuals who take these tours are a culturally and ethnically diverse group.[2] The Respondent also noted that the buyer who visits the facility on behalf of Chrysler is African-American.

[2] There was conflicting testimony regarding how frequently such tours occurred in 2012. Gluch and the employee who works nearest to him, Bodisa Davis-Alspaugh, testified that the number of tours ranged from about four to six annually. Gatlin testified that the number of tours was greater than that – two to three every month – which translates into about 24 to 36 annually. I consider Gatlin a more reliable witness regarding this question since he conducted many of the tours himself. Moreover, he credibly testified that he was consciously encouraging the tours in an effort to expand the Respondent's customer base, and thus he would be expected to be attentive to the number of tours given. Although the section of the plant where Gluch and Davis worked was apparently one where tours groups were sometimes brought, the evidence did not show that all or most tour groups came within Gluch's and Davis' view. Nor did the evidence show that, while performing work functions, Gluch and Davis were in a position to attend to who was passing their work area. In addition, both Gluch and Davis work on the Respondent's first shift (6:00 to 2:30 pm), and would presumably not be present during tours that occurred on the second shift. For these reasons, I believe that Gatlin was in a better position than Gluch and Davis to testify accurately about the frequency of the tours.

After the Respondent implemented the dress code, it appears that the slave shirts were worn at the facility infrequently. In 2010, Gluch wore the shirt to a retirement party that lasted about 20 minutes. Supervisors and managers were present at the party, but no one commented on the shirt. Craig Scramlin, a unit employee who worked on the second shift (2:30 pm to 11:00 pm) wore the shirt from time to time in 2011 and 2012, but he did not recall seeing anyone else wearing the shirt during that time period. Scramlin testified that he believed supervisors and managers saw him wearing the shirt in 2011 and 2012, but did not mention it to him. Four witnesses for the Respondent – Gatlin, Pate, Chris Cooley (plant manager) and Dar Whitman (first shift production supervisor) – testified that after the promulgation of the dress code they did not see anyone wearing the slave shirt again until Gluch did so on May 3, 2012.

C. 2012 Contract Negotiations

In February 2012, the Respondent and the Union began negotiations for a contract to replace the one that was set to expire on April 30, 2012. Davis, who was a member of the Union's bargaining committee during contract negotiations in 2002, 2005, 2008, and 2012, testified that all those negotiations had been difficult, but that the 2012 negotiations were the "roughest" of all. On April 4, 2012, a representative from the international union held a meeting with employees at which he stated that the negotiations were going very poorly and that the union members were "in big trouble." He told them that the Respondent was seeking employee concessions, including with respect to employees' pension and/or insurance, and had been unwilling to agree to any wage increases. The representative of the international union stated that the employees had to let the Company know that they "couldn't sit still and take that." As discussed, above, this meeting led Gluch to engage in prounion activities as a member of an unofficial union reaction committee that created and distributed union signs and buttons, and, in Gluch's words, served as prounion "cheerleaders" to "pump up" the unit members. Gluch and other employees began wearing prounion shirts and pins. It was during this period that the Respondent disciplined Gluch for displaying the slave shirt at work.

During the period of the 2012 negotiations, employees wore and otherwise displayed a variety of items that expressed support for the Union or criticism of the Respondent. With the exception of its actions with respect to Gluch's display of the slave shirt, the Respondent did not take any action to prevent employees from displaying any of those items.[3]

D. The Respondent's Reaction to Gluch's Display of the Slave Shirt

Gluch wore the slave shirt to work on May 3, 2012. He started his shift at 6:00 am and, at about 6:30 am, his supervisor, Whitman, approached Gluch at his work station and said that "the Company" did not like the shirt. Whitman asked if Gluch would take it off, or turn it inside out so that the message would not be displayed. Gluch offered to stay in his work area that day and not wear the shirt again, but Whitman stated that Gluch would have to leave the facility unless he ceased displaying the message on the shirt. Gluch requested the presence of a union steward and Whitman arranged to have union steward Kevin Gantze meet with Gluch. Then, Whitman, along with plant manager Cooley, met with Gluch and Gantze near Gluch's work station. Davis, who worked in proximity to Gluch, may have participated in some part of this exchange. Cooley stated that the slave shirt was offensive to the company and that Gluch

[3] The record indicates that, prior to 2012, none of the various unions who have represented the unit employees had filed any unfair labor practices charges against the Respondent.

had to stop displaying it. Gantze told Gluch that "it doesn't sound like that big of a deal just to flip [the shirt] inside out."[4] Gluch stated that he had already been working and would not turn the shirt inside out "because of reasons of sanitation."[5]

Shortly thereafter, Cooley and Whitman met with Gluch again. This time Scott Sheets and Davis, both members of the union's bargaining committee, participated, but Gantze was not present. Cooley told Gluch that the Respondent "had a new foreman who was black and that he was afraid [the slave shirt] would be racially offensive to him and that he didn't think it was something that should be displayed on the floor." The foreman being referred to was Derrick Greene, an African-American individual who was hired approximately 3 months earlier. At the time, Greene was one of four production supervisors. Sheets offered to discuss the matter with Greene, but Cooley said that would not be necessary. Cooley then told Gluch that he had to either turn the slave shirt inside out or go home. Gluch left the facility at about 8:00 am. The Respondent denied Gluch pay for the hours he missed after being required to leave the facility. Gatlin was not involved in the decisions made regarding Gluch on May 3, but he subsequently told Cooley that he had done the right thing.

On May 7, Pate met with the president of the Union – Jeff Babcock – and the Union local's group chairman – Eric Sanger – about a number of subjects including Gluch's display of the slave shirt. Babcock and Sanger told Pate that, according to the dictionary, "slave doesn't mean anything racial." Pate disagreed, stating that it "has a racial connotation particularly in this country in this day and age."

Also on May 7, Gluch introduced himself to Greene and stated that he was the one who displayed the slave shirt. Gluch apologized to Greene, and informed him that it was not meant

[4] Cooley and Whitman both testified that Gluch requested a union steward and that union steward Gantze came to the scene and suggested that Gluch turn the shirt inside out. Gluch, on the other hand, testified that he did not request a union steward and that Gantze was not present on May 3. Cooley and Whitman testified with confidence and specificity on this subject and I consider their testimony more reliable than that of Gluch regarding the involvement of Gantze. I note, moreover, that union steward Gantze was not called by the General Counsel and his absence was not explained.

Although I found the testimony of Gluch less reliable than that of the Respondent's witnesses on the point described above, I reject the claim of Respondent's counsel that Gluch was generally a dishonest or evasive witness. The purported inconsistencies in Gluch's testimony that the Respondent relies on, to the extent that any of them are inconsistencies at all, were not shown to be more than innocent memory lapses, and confusion about dates and the precise wording of conversations. Based on his demeanor and testimony, I find that Gluch testified honestly and, to the best of his ability, accurately.

[5] Either at that point, or during a conversation shortly thereafter, Cooley and Gluch agreed that if Cooley bought a new shirt for him, Gluch would wear the new shirt instead of the slave shirt. However, this option was not pursued to fruition. According to Cooley, Gluch changed his mind and stated that he would not put on a different shirt even if one was provided to him. However, Gluch and Davis both testified that Cooley reneged on the offer to obtain a new shirt for Gluch. Based on the record, and after considering the demeanor and testimony of Gluch, Davis, and Cooley, I do not find a basis for crediting one account over the other on this point. At any rate, resolution of this factual dispute is not essential to the analysis since, in either case, the fact remains that the Respondent required Gluch to leave the plant because he continued to display the slave shirt.

to be a "racial" shirt and did not refer to "black and white" issues. Greene responded, "Well, I'm not upset with the shirt . . . there were other people what was upset with it."[6]

E. Complaint Allegations

The complaint alleges that, since March 19, 2012, the Respondent has interfered with employees' Section 7 rights, in violation of Section 8(a)(1) of the Act, by maintaining a written policy stating in part: "[C]lothing displaying . . . phrases, remarks or images which may be . . . otherwise offensive and clothing displaying words or images derogatory to the company will not be allowed in any facilities. Similarly displays of these kinds of items are also prohibited on workstations, lockers, tool boxes, and the like. If you are uncertain whether an article of clothing is inappropriate under this policy, follow the old adage of better safe than sorry and refrain from wearing it to work."[7] The complaint further alleges that the Respondent violated Section 8(a)(1) by disciplining Gluch on May 3, 2012, for violating that policy, and also discriminated in violation of Section 8(a)(3) and (1) since that discipline was imposed because Gluch assisted the Union and engaged in concerted activities.

III. Analysis

A. Did the Respondent's Dress Code Violate Section 8(a)(1)?

The General Counsel argues that the Respondent's maintenance and enforcement of the dress code policy violated Section 8(a)(1) of the Act because it set forth overly broad restrictions that interfered with the Section 7 rights of employees to engage in union and/or protected concerted activity. The Board has held that "[a]n employer violates Section 8(a)(1) when it maintains a work rule that reasonably tends to chill employees in the exercise of their Section 7 rights." *Knauz BMW*, 358 NLRB No. 164, slip op. at 1 (2012), citing *Lafayette Park Hotel*, 326 NLRB 824, 825 (1998), enfd. 203 F.3d 52 (D.C. Cir. 1999). Under this standard, a

[6] The Respondent also presented testimony regarding the fact that on May 7 Gluch displayed the slave shirt in his car while it was parked in one of the Respondent's lots. The General Counsel does not allege that the Respondent's reaction to that display violated the Act. Transcript at Pages 211-212. Since there is no allegation regarding the May 7 display, and since the Respondent could not have known about that display at the time of its allegedly unlawful actions on May 3, I do not consider the facts regarding the May 7 display to be probative in this proceeding. To the extent that the Respondent's counsel is attempting to raise the specter that Gluch's display of the shirt in a company parking lot and in proximity to Greene's vehicle, was racially motivated, I find that the evidence does not support that. As discussed above, the Respondent's own witnesses testified that the shirt referred to labor-management issues, and that Gluch's display of the shirt was not understood to be racially motivated. Indeed, Gluch and a large number of other employees had worn the shirt over a period of two decades – not just since the arrival of Greene. Moreover, I note that there was absolutely no evidence that the Respondent's workplace was, or ever had been, racially charged. Indeed, although the Respondent has had an antidiscrimination policy in place since the 1990s and enacted the dress code prohibition on racially offensive displays in January 2006, it did not claim that it had ever taken action to enforce those provisions prior to Gluch's display of the slave shirt on May 3. On the other hand, there is no dispute that May 3 was a time of heightened labor-management unease and that Gluch was a very vocal union supporter.

[7] The Respondent revised the dress code on about January 4, 2013. At that time it deleted the language that prohibited employees from displaying messages that were "otherwise offensive" or "derogatory to the company" and also deleted the language cautioning employees to "follow the old adage of better safe than sorry and refrain from wearing" clothing that might violate the provision. The complaint does not allege that the revised dress code language violates the Act and I make no determination in this decision as to whether it does.

rule that explicitly restricts Section 7 rights is unlawful. Id., citing *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004). If the rule does not explicitly restrict Section 7 rights, the General Counsel may establish a violation by showing any one of the following: (1) that employees would reasonably construe the language to prohibit Section 7 activity; (2) that the rule was promulgated in response to union activity: or (3) the rule has been applied to restrict the exercise of Section 7 rights. Id., citing *Lutheran Heritage*, 343 NLRB at 647.

The Respondent's dress code policy does not explicitly restrict Section 7 activity, however, the General Counsel argues that the policy violates the Act because it is reasonably construed to prohibit protected activity. I agree. The Board has held time and time again that an employer's prohibition on derogatory statements regarding the employer or its officials is reasonably seen as prohibiting protected activity. See, e.g., *HTH Corp.*, 356 NLRB No. 182, slip op. at 26 fn.21 (2011) enfd. 693 F.3d 1051 (9th Cir. 2012) (employer violated Section 8(a)(1) by promulgating a rule that prohibited employees from making derogatory statements about other employees, supervisors, the employer, or its parent corporation); *Krist Oil Co.*, 328 NLRB 825, 849 (1999) (employer's promulgation of rule prohibiting employees from making derogatory statements about the employer, its managers, employees, or customers violates Section 8(a)(1)); *Southern Maryland Hospital*, 293 NLRB 1209, 1222 (1989), enfd. in relevant part 916 F.2d 932 (4th Cir. 1990) (employer violates Section 8(a)(1) by prohibiting "derogatory attack" on the employer's representatives); see also *Knauz*, supra, slip op. at 1 (employer's broad prohibition on "language which injures the image or reputation of the dealership" interferes with Section 7 activity and is unlawful); *Costco Wholesale Corp.*, 358 NLRB No. 106, slip op. at 1-2 (2012) (employer's prohibition against statements that "damage the [employer], defame any individual or damage any person's reputation," encompasses concerted communications protesting the employer's treatment of its employees and is a violation of Section 8(a)(1)). As discussed above, in this case the Respondent's dress code prohibited the display of messages derogatory to the company – a prohibition that interferes with "Section 7 activity, such as employees' protected statements – whether to coworkers, supervisors, managers, or third parties who deal with the [employer] – that object to their working conditions and seek the support of others in improving them." *Knauz,* supra, slip op. at 1. As the Board affirmed in *Southern Maryland Hospital*, supra, such a rule would reasonably be seen by employees as prohibiting them from asserting that the "employer overworks or underpays its employees" since such a statement "may be regarded as 'derogatory' because it places the [employer and its representatives] in an unfavorable light." Thus the Respondent's dress code prohibits even "the most elementary kind of union propaganda." Id. The case against the Respondent's dress code policy is even stronger here than in *Southern Maryland Hospital*, since the Respondent's dress code not only fails to suggest that communications protected by Section 7 are permissible under the dress code,[8] but explicitly directs employees to construe the already broad prohibition so as to be "safe" not "sorry." See also *Knauz*, supra, slip op. at 2 (rules that can be interpreted to have either a lawful or an unlawful meaning are construed against the employer).[9]

[8] Cf. *Knauz*, supra (prohibition on language that injures the employer's reputation found to be unlawful where, inter alia, the rule does not suggest that Section 7 communications are excluded from the prohibition's reach)

[9] Since I find that the Respondent's dress code policy would reasonably be interpreted by employees to prohibit protected Section 7 activity, it is not necessary to discuss here whether the rule was promulgated in response to union activity or has been applied to restrict the exercise of Section 7 rights. The failure to address these questions here should not be construed to suggest that the *Lutheran Heritage*, test would not be met on those bases as well. Indeed, as discussed below, I find that the rule was applied to Gluch in violation of the Act. Moreover, Gatlin testified that he developed the dress code in reaction to employees wearing the slave shirt and, as discussed below, I find that Gluch engaged in Section 7 activity by wearing the shirt.

The Respondent argues that it has a right to maintain its dress code in order to avoid civil liability for racial harassment. Even assuming the Respondent could show special circumstances[10] permitting it to prohibit racially charged forms of Section 7 expression, the argument is still a road to nowhere since the Board has affirmed that a policy that includes "an unlawful prohibition on 'derogatory attacks'" violates the Act even if it "combines" that unlawful prohibition with a "lawful prohibition" on employee misconduct. *Southern Maryland Hospital*, supra. The Board explained that a rule that states a lawful behavioral guideline, but then goes on to state prohibitions that interfere with Section 7 activity is unlawful since an employee's compliance with the lawful portion of the rule is no assurance that the employee will not be sanctioned under the unlawful portion of the rule. *Knauz*, 358 NLRB No. 164, slip op. at 2. Thus, the fact that the Respondent's dress code may contain some lawful prohibitions does not change the fact that it is unlawfully overbroad because it also prohibits communications "derogatory to the company." It is, of course, important to read a rule in context, but in this case the fact that the rule prohibits racially and sexually discriminatory messages in no way changes the fact that it also prohibits derogatory messages about the company regardless of whether they are racially or sexually discriminatory.

There is no dispute in this case that the dress code policy, which I find to be unlawfully overbroad, has been enforced by the Respondent. The Respondent enforced the dress code policy on May 3 by requiring Gluch to leave the facility, and forfeit pay, because he insisted on continuing to display the slave shirt The enforcement of the unlawful dress code was a violation of Section 8(a)(1) as well.

For the reasons discussed above, I conclude that, since March 19, 2012, the Respondent has interfered with employees' Section 7 rights in violation of Section 8(a)(1) of the Act by maintaining and enforcing the overly broad dress code policy.

B. Did the Respondent Discriminate in Violation of Section 8(a)(3) When it Directed Gluch to Leave Work on May 3?

The complaint alleges that the Respondent discriminated in violation of Section 8(a)(3) and (1) on May 3, 2012, when it "disciplined and sent home without pay" its employee Gluch for wearing the slave shirt. The Respondent defends its action as being justified by Gluch's refusal to cease displaying the message on the slave shirt. For the reasons discussed below, I conclude that a violation of Section 8(a)(3) and (1) is shown because Gluch was engaging in activity protected by Section 7 when he displayed the slave shirt on May 3 and did not in the course of that protected activity engage in conduct that caused him to forfeit the Act's protection. *Fresenius USA Mfg.*, 358 NLRB No. 138, slip op. at 4 (2012); *Atlantic Steel Co.*, 245 NLRB 814 (1979).[11]

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[10] See *Pathmark Stores*, 342 NLRB 378, 379 (2004) ("Although employees are presumptively entitled under Section to wear union insignia or attire during their working time, an employer may limit this activity if it establishes "special circumstances" justifying the limitations imposed.").

[11] The General Counsel and the Respondent analyze the 8(a)(3) allegation under the burden shifting approach set forth in *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983). However, the *Wright Line* analysis "is inapplicable where, as here, an employer undisputedly takes action against an employee for engaging in protected conduct; in such cases, the inquiry is whether the employee's actions in the course of that conduct removed the employee from the protection of the Act." *Fresenius*, supra, slip op. at 4 fn.7; see also *Nor-Cal Beverage Co.*, 330 NLRB 610, 611 (2000).

The criticism that an employer is reducing its employees to the status of slaves is not new in labor-management relations. See, e.g., *Aluminum Casting & Engineering Co., Inc.*, 328 NLRB 8 (1999) (recognizing that employee was commenting on prevailing employment conditions by wearing a button that read "Slave Co."). The term "wage slave" is often used to refer to an employee whose total and immediate dependency on wages puts him or her in a disadvantageous bargaining position, leading to low wages and the lack of fulfilling job choices and self-management.[12] I infer that Gluch's display of the slave shirt would be understood in such terms by co-workers, agents of the Respondent, and visitors to the plant given the ongoing, contentious, contract negotiations – especially in light of the fact that Gluch was a very vocal union supporter, that there were multiple public displays around the plant referencing labor issues, and that the shirt had historically been worn to protest the Respondent's treatment of workers.[13] The Respondent's own officials confirmed this. Gatlin, the Respondent's president, testified that the slave shirt was a "general wage and conditions protest," and the Respondent's human resources manager, Pate, testified that the shirt was "critical of the working conditions or the Company's position in bargaining." Gluch's supervisor, Whitman, described the shirt as a "union thing." Pate testified that he understood that Gluch was not wearing the shirt to convey a racial message.

As discussed above, employees created the shirt comparing themselves to "slaves" in 1993 in response to a statement by the chairman of the union bargaining committee that contract negotiations were not going well and employees "needed to send the Company a message." The shirts were subsequently worn by picketers during a 1996 strike and thereafter by up to 20 to 30 percent of the bargaining unit. Contract negotiations were difficult again in 2012, and in April a representative of the international union met with unit employees and (as in 1993) stated that the negotiations were going poorly and that employees had to make management aware of their displeasure. In response to that urging, Gluch joined an informal group of prounion "cheerleaders" who attempted to "pump up" the union members by, inter alia, creating and distributing prounion signs and buttons. I find that Gluch's display of the slave shirt on May 3 was not only an expression of his support for the Union and the demand for better working conditions, but also an effort to encourage coworkers to support those causes. Under the circumstances present, I conclude that Gluch's display of the slave shirt was concerted protected activity both in the sense that Gluch was using it to "pump up" the union membership in an effort to "initiate or to induce or to prepare for group action," and in the sense that he was attempting to "bring[] truly group complaints" about wages and working conditions "to the attention of management." *Meyers Industries*, 281 NLRB 882, 887 (1986), affd. sub nom. *Prill v. NLRB*, 835 F.2d 1481 (D.C. Cir. 1987), cert denied 487 U.S. 1205 (1988); see also *Automatic Screw Products Co.*, 306 NLRB 1072 (1992) (discussions of wages are "inherently concerted

[12] See Dictionary.Com (retrieved 7/19/2013) and Wikipedia ("Wage Slavery" entry) (retrieved 7/19/2013); see also *Andrews v. GEO Corp., Inc.*, 2012 WL4478803, *5 fn.7 (D. Colo. 2012) ("[P]eople of all races are commonly referred to as 'slaves' to various masters both concrete ('he's the office's coffee slave') and abstract (being a 'wage slave').").

[13] The fact that the slave shirt does not identify the Union or mention the ongoing labor issues does not change the fact that its display constitutes protected activity. Whether actions are protected does not depend on the labor issues being explicitly mentioned. See, e.g., *AT&T Connecticut*, 356 NLRB No. 118 (2011) (employees engaged in protected activity by wearing, and refusing to remove, shirts that read "Prisoner of AT$T" and listed a "prisoner number.") "'Specificity and/or articulation are not the touchstone of . . . protected concerted activity,'" rather the "nexus . . . must be gleaned from the totality of the circumstances." *Senior Citizens Coordinating Council of Riverbay Community Inc.*, 330 NLRB 1100, 1104 fn. 15 (2000), quoting *Springfield Library and Museum Assoc.,* 238 NLRB 1673 (1979). See also *Valley Hospital Medical Center, Inc.*, 351 NLRB 1250, 1251-1252 (2007), enfd. 358 Fed. Appx. 783 (9th Cir. 2009) (employee's statements may be Section 7 activity even when those statements do not include mention of a labor dispute or an attempt to elicit public support for the union).

activity"), enfd. 977 F.2d 582 (6th Cir. 1992) (Table). In addition, I find that Gluch's display of the slave shirt was protected as union activity because it was part and parcel of the prounion cheerleading efforts that he undertook in response to the urgings of a representative of the international union.

Given that the Respondent disciplined Gluch for conduct protected by the Act, the Respondent's action violated Section 8(a)(3) and (1) unless Gluch's activity was so threatening, egregious, or opprobrious as to cause him to lose that protection. *Random Acquisitions, LLC*, 357 NLRB No. 32, slip op. at 14 (2011); *Nor-Cal Beverage Co.*, 330 NLRB 610, 611 fn.5 (2000). Under the Board's decision in *Atlantic Steel*, the determination about whether otherwise protected activity has lost the Act's protection is based on a "careful balancing" of the following four factors: (1) the place of the discussion; (2) the subject matter of the discussion; (3) the nature of the employee's outburst; and (4) whether the outburst was, in any way, provoked by an employer's unfair labor practice. 245 NLRB at 816. The Board has cautioned that while an employer may lawfully discipline an employee engaged in protected activity for statements that threaten others with, for example, physical harm, it may not discipline an employee for making statements that simply make others annoyed or uncomfortable, or which are viewed as "harassment" by employees because they disagree with the statement. *Chartwells, Compass Group, USA*, 342 NLRB 1155, 1157 (2004); *Alpine Log Homes*, 335 NLRB 885, 894 (2001), *RCN Corp.*, 333 NLRB 295, 300 (2001), *Nor-Cal Beverage Co.*, supra.

I conclude that Gluch's display of the slave shirt was not so opprobrious or egregious as to forfeit the Act's protection. As discussed above, the slave shirt criticized the wages and other conditions of employment that the Respondent was offering to unit employees. It was worn by Gluch in the context of ongoing, highly contentious, contract negotiations. The ability to lodge such criticisms, especially in the context of ongoing contract negotiations, is at the core of protected activity. See, e.g., *AT&T Connecticut*, supra, (employees did not lose the protection of the Act when, during collective bargaining, they refused the employer's direction to remove shirts that read "Prisoner of AT$T.") The shirt in this case did not go beyond the message regarding labor relations or contain any obscene words or vulgar images. There is no suggestion that the shirt maligned the Respondent's products, or criticized any aspect of its operation other than its treatment of employees. Cf. *Valley Hospital Medical Center,* supra (employer may prohibit employees from disparaging its products, but not from simply "airing . . . highly sensitive issues"; "where the purpose of communications is to encourage the employer to remedy problems in working conditions, and not to disparage its product or undermine its reputation, the communications are protected") and *NLRB v. Mead Corp.,* 73 F.3d 74, 79 (6th Cir. 1996) ("Special circumstances" permitting an employer to limit Section 7 expression "arise most often where employees have significant contact with the public, where the slogans at issue denigrate the employer's product or business, and where the slogans are patently offensive or vulgar.") (internal citations omitted), enfg. *Escanaba Paper Co.*, 314 NLRB 732 (1994). Furthermore, there is no allegation that the shirt threatened, or sought to induce, violence or other improper harm. See *Chartwells*, supra (employer may discipline employee engaged in protected activity for making statements that threaten others, but not for making statements that simply make others annoyed or uncomfortable). In addition, when the Respondent approached Gluch about his display of the slave shirt, Gluch did not react by directing any type of harsh or inappropriate statements at the Respondent's officials. For the above reasons, I find that the "subject matter" and "nature" of Gluch's expression both weigh heavily in favor of continued protection.

I also find that the location of Gluch's expression – on a shirt worn by Gluch while he went about his normal work activities on the Respondent's production floor – weighs in favor of continued protection. The wearing of shirts carrying messages supportive of a union or critical

of an employer is a well-recognized form of Section 7 activity. See *Komatsu America Corp.*, 342 NLRB 649, 650 (2004) ("In general, employees have a protected right under Section 7 of the Act to make known their concerns and grievances pertaining to the employment relationship, which includes wearing union insignia while at work."); *Pathmark Stores*, 342 NLRB at 379 ("employees are presumptively entitled under Section 7 to wear union insignia or attire during their working time"). The Respondent did not require Gluch to wear a uniform, and so his display of the shirt was not obscuring, or defacing, a public image carefully developed by the Respondent. Gluch was an equipment operator on the production floor and, although visitors tour the plant once or twice a month, meeting the public was not one of his regular duties. Cf. *NLRB v. Mead Corp.,* supra. He was not attempting to wear the shirt in areas where it was inappropriate for him to be and was not shown to have caused a disruption either by displaying the shirt or by his actions when the Respondent told him to stop doing so.

Regarding the forth *Atlantic Steel* factor, the evidence did not show that Gluch's display of the slave shirt on May 3 was provoked by an unfair labor practice. This factor, however, does not weigh significantly against continued protection since the shirt's message was not an outburst directed at his superior and was meant for Gluch's co-workers as well as for the Respondent. See *Fresenius*, supra, slip op. at 7 (where the employee's message is directed towards co-workers rather than his superior, the "the lack of employer provocation neither weighs in favor of nor against finding the conduct protected"). To the extent that this factor supports finding that Gluch's display of the shirt was unprotected, it is far outweighed by the three factors supporting continued protection.

The Respondent asserts that it has established special circumstances that entitle it to discipline Gluch because the shirt's "slave" reference was racially offensive and would unreasonably interfere with the public image that the employer has established. Brief of Respondent at Page 17, citing, inter alia, *Komatsu America Corp.*, 342 NLRB at 650 and *Southwestern Bell Telephone Co.*, 200 NLRB 667, 669-670 (1972). I find that, given the circumstances present here, this defense is not only legally unsupported but disingenuous. The Board has repeatedly found employees to be protected by the Act even when, like Gluch, they displayed messages that likened their working conditions to those of a slave. In *Holiday Inn*, striking employees who wore shirts that read "Maids Not Slaves" were protected by the Act. 274 NLRB 687 (1985), enfd. sub nom. *NLRB v. Ozark Properties*, 794 F.2d 678 (8th Cir. 1986) (Table). In *Go-Lightly Footwear, Inc.*, employees were protected by the Act when they engaged in a strike and carried signs that read "Lincoln Freed the Slaves." 251 NLRB 42 (1980); See also *Signature Flight Support*, 333 NLRB 1250 (2001) (employees engaged in protected concerted activity when they told co-workers that they were "stupid" if they allowed "the company to treat you as slaves") affd. 31 Fed.Appx. 931 (11th Cir. 2002) (Table); *Aluminum Casting Engineering Co., Inc.*, supra, (recognizing that employee was commenting on prevailing employment conditions by wearing a button that read "Slave Co."); *Acme Breweries*, 86 NLRB 1098 (1949) (employer who showed support for a union by, inter alia, making "slave driver" comment to employer was unlawfully discharged because of his union support); *Republic Creosoting Co.*, 19 NLRB 267 (1940) (employer discriminated in violation of the Act when it discharged an employee after he attempted to persuade a co-worker to join the Union by saying that "Lincoln had freed the slaves.").

As union officials Babcock and Sanger pointed out to Pate on May 7, the word "slave" is generally defined as the condition of servitude or being subject to a person or influence, not by reference to race. See, e.g., Webster's II New Riverside University Dictionary (1984); and Dictionary.Com (retrieved August 6, 2013); see also *Andrews v. GEO Corp., Inc.*, supra ("[P]eople of all races are commonly referred to as 'slaves' to various masters both concrete

('he's the office's coffee slave') and abstract (being a 'wage slave').").[14] In addition, given that the shirt has a long history at the plant as a form of protest against the Respondent's bargaining behavior, that such concerns were in play when Gluch wore the shirt on May 3, that those labor concerns were being trumpeted in multiple public displays around the plant, and that Gluch was known to be very vocal union supporter, the Respondent cannot credibly claim that it was concerned that Gluch's display of the shirt would be seen as carrying a racial message. Indeed, for close to two decades the shirt has been worn to work by unit employees – sometimes by up to 20 to 30 percent of the bargaining unit – and there was no evidence that any African-American employee or visitor ever asserted that the shirt carried a racial message.

The Respondent cites two trial court decisions in which use of the word "slave" was considered evidence of racial animus. Brief of Respondent at Page 19, citing *Smith v. Fairview Ridges Hospital*, 550 F. Supp. 2d 1050, 1057 (D. Minn. 2008); *Curtis v. First Watch of Arizona, Inc.*, 2006 WL 726883 *9 (D. Ariz. March 20, 2006). In both of those cases the word "slave" was used in direct reference to an African-American employee and in a way demeaning to that employee. Such circumstances are not remotely comparable to those present here, where the word "slave" was used by Gluch in reference to *himself* and as a criticism of the working conditions the Respondent was offering employees – not in reference to an African-American employee. Moreover, neither of the cases referenced by the Respondent concerned the limits of an employee's rights under the National Labor Relations Act to engage protected expression. Rather both *Fairview Ridges* and *First Watch of Arizona* were before the court on the employer's motion for summary judgment regarding an employee's allegation of racial harassment and in both instances partial summary judgment was granted because the use of the word "slave" was found insufficient to raise a question for trial.

I note, moreover, the Respondent has not shown that its facility was a racially charged environment where one might plausibly conjure a racial insult from the shirt's facially race-neutral message. Although the Respondent has had a policy against racial discrimination since the 1990s, it did not show that it had ever found it necessary to take action based on such a policy prior to disciplining Gluch. Indeed, as discussed above, the shirt was understood as a complaint about general wages and working conditions even by Gatlin and Pate – the officials who created and imposed the rule that prohibited employees from wearing the shirt. I do not doubt that Gatlin and Pate were personally offended and embarrassed that the working conditions at their Company were being compared to slavery. However, the exercise of Section

[14] The Respondent argues that prohibiting Gluch from wearing the shirt was justified in part by a desire to avoid racially offending customers during a period when the Company was relying on tours of the plant to expand its customer base. The record does not show a reasonable basis for this purported concern. There is no evidence that during the slave shirt's almost two-decade history at the plant any outside visitor to the plant had ever been racially offended by it, even during those periods when 20 to 30 percent of unit employees were wearing the shirt to work. If one were to assume, contrary to my findings, that the evidence supported finding that it was reasonable to believe some visitors would be racially offended, such evidence still would not justify the Respondent's action because the Board has held that an employer's "sensitivity to the possible impact of [the employee's protected activity] cannot serve to limit [the employee's] statutory right to appeal to the public," even during an economically "fragile moment" for the employer. *Endicott Interconnect Technologies, Inc.*, 345 NLRB 448, 452 (2005), enf. denied 453 F.3d 532 (D.C. Cir. 2006); see also *Technicolor Government Services*, 276 NLRB 383, 388 (1985) (concerted activity does not lose protection under the Act "simply because it may have an ultimate detrimental impact upon an employer). If someone found the comparison of employees' working conditions to slavery so inapt as to be insulting – racially or otherwise – that would not permit the Respondent's action since discipline cannot "be justified by an assertion that language used by the employee in the course of exercising [a Section 7] right, although nonthreatening, was viewed as 'harassment' by another employee who disagreed with him." *Nor-Cal*, supra

7 rights often causes annoyance or discomfort for persons of a different viewpoint and the Board has made clear that this is insufficient to render the Section 7 conduct unprotected. *Chartwells,* supra; *Alpine Log Homes*, supra, *RCN Corp.*, supra; *Nor-Cal*, supra.[15]

The Respondent argues that it should not be required to subject itself to liability for racial harassment by permitting the display of the slave shirt at its facility. This argument is a red herring. To constitute unlawful racial harassment, the incidents "must be more than episodic; they must be sufficiently continuous and concerted in order to be deemed pervasive." *Faragher v. City of Boca Raton*, 524 U.S. 775, 787 fn.1 (1998). For the reasons already discussed, Gluch's display of the slave shirt cannot reasonably be understood as a comment about race, much less as one that would single-handedly create an environment so pervasively offensive as to begin to approach the threshold for actionable racial harassment. In addition, courts have often declined to hold an employer liable for racial harassment where no one complained to the supervisors or managers about the conduct alleged to constitute harassment. See e.g., *Willis v. Henderson,* 262 F.3d 801, 810 (8th Cir. 2001); and *Hollins v. Delta Airlines*, 238 F.3d 1255, 1258 (10th Cir. 2001). In the instant case, there was no evidence that Greene, or any other African American working at, or visiting, the plant complained to the Respondent that they felt racially harassed by Gluch wearing the slave shirt. To the contrary, Greene told Gluch that he was not upset by the shirt.

For the reasons discussed above, I conclude that Gluch engaged in protected concerted and union activity by displaying the slave shirt on May 3, 2012, and that the Respondent violated Section 8(a)(3) and (1) by disciplining him for doing so.

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent has violated Section 8(a)(1) of the Act since March 19, 2012, by maintaining and enforcing an overly broad dress code policy.

4. The Respondent violated Section 8(a)(3) and (1) when, on May 3, 2012, it disciplined employee Mark Gluch by requiring him to leave its facility, and forfeit pay, because of his protected concerted and union activity.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to

[15] The Respondent cites *United Parcel Service*, 195 NLRB 441, 449 (1972), for the proposition that an employer has the ability to protect its public image by prohibiting employees from wearing union insignia. However, the employer's authority in that case was only triggered because the company was "supplying a service to the public and its employees [we]re in regular contact with the public." Id. Indeed, the employees at issue in that case were the familiar UPS driver/delivery employees who wear uniforms as part of the company's carefully controlled public image. The Respondent in the instant case, on the other hand, is a non-retail business, unit employees are not required to wear uniforms, and Gluch's work duties do not include regular contact with the public. Thus, the employer authority triggered in *United Parcel Service* does not exist here.

effectuate the policies of the Act. In particular, I recommend that the Respondent make Gluch whole for any losses earnings and other benefits suffered as result of the unlawful discipline imposed on him.[16] Backpay shall be computed in accordance with *F. W. Woolworth Co*., 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center,* 356 NLRB No. 8 (2010).

Respondent shall file a report with the Social Security Administration allocating backpay to the appropriate calendar quarters. Respondent shall also compensate the discriminatee for the adverse tax consequences, if any, of receiving one or more lump-sum backpay awards covering periods longer than 1 year, *Latino Express, Inc.,* 359 NLRB No. 44 (2012).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended Order.[17]

ORDER

The Respondent, Alma Products Company, Alma, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Maintaining or enforcing any overly broad rule that prohibits employees from wearing clothing that expresses support for the Union or protests working conditions, including those bearing words or images that are derogatory to the company, and/or from maintaining or enforcing any overly broad rule that prohibits employees from displaying such messages at their workstations, lockers, or tool boxes.

(b) Disciplining any employee, including by requiring such employee to leave the facility and/or forfeit pay, because such employee exercised his or her right to wear clothing, or otherwise display messages, that support the Union or protest working conditions.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make Mark Gluch whole for any loss of earnings and other benefits suffered as a result of the unlawful discipline against him, in the manner set forth in the remedy section of the decision.

[16] On January 4, 2013, the Respondent provided Gluch with compensation for losses he suffered when ordered to leave the Respondent's facility on May 3, 2012. The record does not establish whether all losses that Gluch experienced were addressed by the Respondent's action on January 4. The Respondent is required to provide compensation only to the extent, if any, that Gluch's losses based on the unlawful discipline exceed those for which he has already been compensated.

[17] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(b) Within 14 days from the date of the Board's Order, remove from its files any reference to the unlawful discipline, and within 3 days thereafter notify Gluch in writing that this has been done and that the discipline will not be used against him in any way.

(c) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(d) Within 14 days after service by the Region, post at its facility in Alma, Michigan, copies of the attached notice marked "Appendix."[18] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 19, 2012.

(e) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., August 14, 2013.

_____
PAUL BOGAS
Administrative Law Judge

[18] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT maintain or enforce any overly broad rule that prohibits you from wearing clothing that expresses support for the Union or protests working conditions, including clothing that carries words or images that are derogatory to the company, and WE WILL NOT maintain or enforce any overly broad rule that prohibits you from displaying such messages at your workstations, lockers, or tool boxes.

WE WILL NOT discipline any of you, including by requiring you to leave the facility and/or forfeit pay, because you wear clothing, or otherwise display messages, that support the Union or protest working conditions.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL make Mark Gluch whole for any loss of earnings and other benefits he suffered as a result of the unlawful discipline against him.

WE WILL, within 14 days from the date of this Order, remove from our files any reference to the unlawful discipline of Mark Gluch, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the discipline will not be used against him in any way.

ALMA PRODUCTS COMPANY

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

477 Michigan Avenue, Room 300, Detroit, MI 48226-2569
(313) 226-3200, Hours: 8:15 a.m. to 4:45 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (313) 226-3244.